Development (1957) Dept

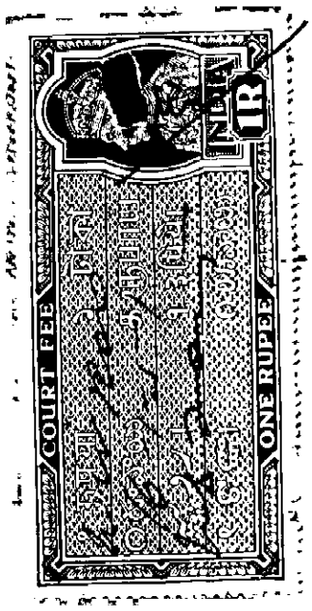
Memo No 10399 D/57-4 dated 30.5.57

Mines – quarrying (South Kanara) – indiscriminate – upper limit
SNO 258/3 – Removal of stones – levy of enhanced
Seigniorage fees – Memorial against – the order of the
Board of Revenue – submitted

OFFICE OF THE BOARD OF REVENUE
23 JAN 1951

N 0647 23.1.51 C/W

L576



THE SPECIAL SECRETARY TO GOVERNMENT, LAND-REVENUE AND SETTLEMENT, George Town, M A D R A S.

Narasinga Rao, son of Thimmappayya,
Branch Post-Master, Uppoor Post,
(Udipi Taluk) S. Kanara Dist. } Memorialist.

Mines - Quarrying - (South Kanara) - Udipi Taluk - Uppoor Village - S. No. 258/3 - Removal of Stones - Levy of enhanced seigniorage fees - Memorial against the Order of the Board of Revenue - submitted.

Ref: Order L.Dis. L.5204-1949/9-12-1949 of the Board of Revenue - Madras. (copy)

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1. The Memorialist is highly aggrieved with the order L. Dis. 5204-1949/9-12-1949 received by him from the Board of Revenue, rejecting his appeal preferred against the orders of the Collector passed in proceedings L.Dis.C. No: 4651-1949 dated 27-7-1949 refusing for a reconsideration of Udipi Tahsildar's order Ref. C. No: 7986 - 1948 dated 5-2-1949 calling on the appellant to pay a penalty of Rs 90/- for cutting of 7200 laterite stones from the Memorialist's Patta land S.No: 258/3 of Uppoor Village of Udipi Taluk in South Kanara District. He therefore begs to prefer this Memorandum of Memorial on the following ground for kind consideration of the Government and favourable orders.

2. The orders of the Board of Revenue, the Collector of South Kanara and the Tahsildar of Udipi are all harsh or unfair, contrary to law, and the facts of the case, opposed to Justice, equity and against the principles of good conscience. Due consideration has not been paid to the bonafides of the appellant's claims and submissions

12

1A

10399 Board of Revenue (LR)
Chepauk, Madras.

NDis. L. 596/51.

25-1-51.

Mis sent. Submitted to the Secretary to Government, Development dept.

For Secretary.

To /
The Secy to Govt.
Dev. Dept.

24/1 24/1

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In the result there has been wholesale mis-carriage of Justice and irreparable loss to the Memorialist. He therefore seeks relief with the Government in this Memorandum of Appeal after full enquiry if considered necessary.

3. The Memorialist is a land-holder owning lands in Uppoor, Heroor, Cherkady and Tonse-East villages paying an assessment of Rs 60/- and a Mulgeni rental of Rs 10/-. The cultivation of the properties is being carried on with rain water as there is no artificial water supply either to increase the number of crops or to increase the area to be brought under cultivation.

4. The Memorialist's dry lands S.Nos. 258/3 and 161/2A of Uppoor forming one block of almost 4 acres are level pieces of lands capable of being cultivated with food crops if an adequate supply of water is made available. With a view to seek this end and also improve the source of irrigation for ~~the~~ his Ist crop wet lands in the vicinity of the above sites adjoining thereon, the Memorialist intended to dig a tank 34' x 25' in his warg dry lands S.No.258/3 and started work about the middle of July when ground would generally be soft and cheap labour could be available. As the excavation was progressing a hard bed of laterite was noticed at a depth of about 5' from the surface. There would not have been any necessity for the Memorialist to obtain a Permit ~~he~~ if he were to dig out the laterite bed. As it was, the laterite bed amounted sufficiently hard for being used to stein the tank itself and for use of his other domestic purposes of repairing his residential house. Hence the Memorialist submitted a petition dated 2 - 8-1948 to the Tahsildar,Udipi requesting for grant of a Permit to quarry stones in the sub-division 258/3 from about 3 cents

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constituting the site of the Tank and commenced to excavate. In the said petition it was expressly represented that the stones were required for steining the Tank and repair of the house of the Memorialist.

5. The Memorialist suspended the excavation and waited for orders on his petition for over a month. As no enquiry even was instituted, he submitted another petition on 7-9-48 by way of reminder soliciting permission to proceed on with the work of excavation and quarrying and resumed the work with a view to irrigate and raise 2nd crop in his wet lands. But the laterite bed thus came to be removed by quarrying stones without recourse to indiscriminate excavation. Thus it is apparent that quarrying of laterite stones from the tank site was for the purpose of digging a tank and steining it, as also for increasing the number of food crops and for bringing a fairly considerable extent of dry land under cultivation. Further the quarrying for which permission was sought for being in a portion patta lands of the Memorialist, he, in the ordinary circumstances, believed that he would get the formal permission in the ordinary course.

6. Thus it would be evident that the action of the Memorialist was bonafide. This is also proved by the fact that he submitted an application to the Agricultural Department in May 1947 before he commenced the excavation for supply of a pumping-set. Though he was informed that no pumping set was then available, the Memorialist proceeded with the work of digging the Tank hoping that a set would be made available to him in the near future as promised by the District Agricultural Officer or else he would purchase one.

He did purchase an engine with pump-set. But neither the authorities concerned viz: Tahsildar nor the District Collector.and the Board of Revenue seemed to have paid any consideration to the efforts of the Memorialist to grow-more food and also to fact that the Tank in digging of which laterite stones were quarried for steining it was intended to increase crop by intensive and extensive cultivation.

7. The petition of the Memorialist came to be enquired into only in November or December 1948 about three or four months after the same for permission was submitted. The Memorialist conceeds that by that time about 7200 laterite stones were quarried and the excavation of the tank was done to a depth of 15 feet. Even during enquiry the Memorialist represented before the local officer that the stones were intended for steining the tank and for repairing Memorialist's residential house. If the stones were intended for sale, the Memorialist would have disposed them off as and when they are cut without allowing them to accumulate to a large number. The fact by itself is a proof positive that the Memorialist wanted the stones for steining the tank and for his other domestic use in the repair of his house and compound. Besides stones would be required to fit up the Pumping-set. The requirements of the Memorialist for all these purposes would be more than 10,000 while the stones quarried only numbered to 7200. But the R.I. who conducted enquiry only directed to suspend the quarrying operation and seized all the 7200 laterite stones in the site. Ever since this, the Memorialist was constrained to discontinue the work of the Tank.

8. This it would be seen that without taking into ---

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consideration the objects and requirements of the Memorialist as aforesaid, the Tahsildar, Udipi in his order Ref. C. N. 7986-1948 dated 5-2-49 basing on Collector's endorsement M.Dis C.No: 27167/1948 dated 3-12-1948 called on the Memorialist to pay a penalty of Rs 90/- for the quarrying of 7200 laterite stones from S. No. 258/3 of Uppoor on pain of being charge-sheeted. The said order was wrong and inequitable in the circumstances of the case giving rise to the abondonment of the whole of the project of digging a tank for agricultural purposes which the Memorialist had in view. The tank excavated to a depth of 15' stands incomplete and without any use for irrigation purposes as there is necessity of further excavation to an additional depth of at least another ten feet. The stones quarried are lying near the tank site - exposed and deteriorating instead of being made valuable use of them to stein the tank. The labour and money spent by the Memorialist with the objects of furtherance of the Grow-more-food campaign has gone to waste. All this appears to be the out-come of mis-apprehensions that the quarrying of stones was done for commercial purposes.

p 27 (H) of p 219 (H)

9. The Memorialist submits that he set out all the facts which bore out his bonafides in quarrying the stones in stead of removing the laterite bed in bits while digging the tank in his own land for genuine purpose to extend and increase cultivation and moved the Collector for a reconsideration of the case and the Board of Revenue to set aside the Collector's order and grant of a permit to continue quarrying. But his appeal was rejected summarily by the Collector and the Board of Revenue on the ground that they would see no reason to reconsider the orders already passed. The stay order has also likewise have vacated.

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10. In conclusion therefore the Memorialist prays that the benign Government on a consideration of the facts stated above and after directing such further enquiry as is deemed necessary may be pleased to reverse the entire orders directing him to pay the penalty of Rs 90/- and to order the grant of the Permit as prayed for in his petition dated 7-9-1948.

11. The Memorialist also prays that the order directing the Collector of Rs 90/- from him may be stayed pending disposal of his Memorial against the orders of the Board of Revenue, Collector of South Kanara and the Tahsildar Udipi passed in their respective Nos: L.Dis.L.5204-49 dated 7-12-1949, L.Dis.C.No: 4651/49 dated 27-7-1949 and Ref. C. No: 7986-1948 dated 5-2-49 directing him to pay penalty of Rs 90/- for quarrying laterite stones from his S.No: 258/3 of Uppoor Village.

p196 (X)

pp31-32 (D)

p27 (H)

Uppoor, Udipi Taluk, S.K. Dt.
Dated 15-1-1951.

K. Nayak

Memorialist.

Enclosure:
Copy of Board's order L.Dis.L.5204-49 dated 7-12-49.

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OFFICE OF THE BOARD OF REVENUE, MADRAS.

***

SRI V.N. KUDVA, I.C.S., COMMISSIONER OF COMMERCIAL TAXES.

L.Dis.L.5204/49. Dated the 7th Dec. 1949.

Sub: Mines - quarrying - (South Kanara) - Udipi taluk - Uppur village - S.No.258/3 - Illicit removal of stones - levy of enhanced scigniorage fees - revision petition - against the orders of the Collector - orders passed.

Read: Petition from Sri.U.Narasinga Rao, dated 9-9-49.
'From the Collector of South Kanara Ref.A1.24390/49 dated 15-11-49.

- - - -

L.DIS.

The petition is rejected and the stay order granted in Board's Ref.L.5204/49-1 is vacated.

(sd) Y.Bichi Reddy,
Asst. Secretary.

To Sri.U.Narasinga Rao through his counsel.
Sri.T A.Rajagopal, Advocate,
Gangadhaswar Koil Street, Porasawakkam, Madras.
Copy to Collector of South Kanara, with enclosures returned.

/Forwarded/by order/

SNK/7.12.

Superintendent. 7/12

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Memo No 10399 J'51-1 dated 31-1-51

sub:- Mines - Lyanarying - (South Kanara) Udupi Taluk - Eppoor village - Removal of stones - Levy of enhanced Seigniorage fees.

Ref Petition from Sree Narasinga Rao. dated 15-1-51.

A copy of the petition from Sree Narasinga Rao of Eppoor, Nitrik, S. Kanara dt. is forwarded to the Bd of Revenue ~~for its remarks and is requested to offer its remarks and submit the case back with a report to Govt. urgently~~ (for remarks together with the relevant records in original.

31-1-51

1p-1-12cf-

To
The Bd of Rev
with a copy of
P.1.12cf)

28.2.51.

30.1.51

30.1.51.

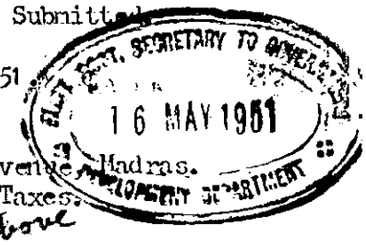
31.1.51

22

REVENUE DEPARTMENT.

SUBJECT.

MINES - Quarrying - South Kanara - Udupi taluk - Uppoor Village - Renoval of stones - Levy of enhanced Seigniorage fees - Remarks - Submitted.



Station: Madras. Ref.L.1048/51.3. Dated: 12-5-51.

From

Sri N.C.Thomas, B.A., Joint Secretary, Board of Revenue, Madras.
Sri V.N.Kudva, I.C.S., Commissioner of Commercial Taxes.

READ: Govt.Memo.No.10399/J/51-1 Development dated 31-1-51. p15 above
From the Collector of South Kanara C.No.4213/51 dated 20-4-51. below

54251

Submitted to the Government.

2. Sri Narasinga Rao, the petitioner, is the registered holder of S.No.258/3 of Uppoor village of Udipi taluk. On 7-9-48 he applied to the Collector for a permit to quarry laterite stones from the said S.No. for domestic purposes and also for permission to sell such of the stones as were in surplus of his requirements. But during the enquiry, it was found that he had quarried 7200 laterite stones, which he cannot do without a permit, and on the basis of the report of the Revenue Inspector, that the stones were not intended either for domestic or agricultural purposes, the Collector in his N.Dis.C.No.27167/48 dated 31-12-48 penalised the petitioner by levying a penalty of Rs.90/- for illicit quarrying. In his proceedings L.Dis.C.No.4651/49 dated 27-7-49, the Collector rejected the revision petition of the petitioner as he considered that there were no grounds to reconsider the order already passed.

3. The petitioner preferred an appeal to the Board against the order of the Collector in his L.Dis.C.No.4651/49 dated 27-7-49. The records of enquiry reveal that the stones were quarried mainly with a view to sell them. The contention of the petitioner that he wanted to sink a tank is disproved by the fact that the soil around the area is hard and will not be fit for cultivation. Therefore his argument that he quarried the stones with a view to grow food crops is evidently an after thought. The Board took these facts into consideration while rejecting the appeal of Sri Narasinga Rao. It also considered that the order of the Collector levying a penality of Rs.90/- for the total number of laterite stones illicitly quarried, which is only twice the normal seigniorage rate, is by no means excessive. In the circumstances, the Board considers that the petitions filed by Sri Narasinga Rao does not deserve any consideration.

4. The files of the Office of the Collector L.Dis.4651/49, of the Tahsildar, Udipi: C.No.7968/48-A-G(Pages92) and of the Board: Board's L.Dis. L.5204/49 dated 7-12-49 are submitted herewith for reference and return.

For Joint Secretary.

To

The Secretary to Government, Development Department, Madras (Infull) (with enclosures)

Copy to the Collector of South Kanara.

pnk

Copy of Ref.C.4213/51-1 Dated 20-4-51.

Sub: Mines and Minerals - Quarrying - S.K. - Udipi taluk - Uppoor village - S.No.258/3 - Illicit removal of stones - Levy of enhanced seigniorage fees - Memorial to Government against Board's L.Dis.5204/49 - Report - Submitted.

Ref: Board's Ref.L.1048/51-1 dated 10-2-51.

The Memorialist is the registered holder of S.No.258/3 of Uppoor village of Udipi taluk. In his petition dated 7-9-48 he applied to the Tahsildar Udipi for a permit to quarry laterite stones from the above plot for domestic purposes and also asked for permission to sell such of the stones as were in surplus of his requirments. But during the enquiry into the petition it was found that he had already quarried 7200 stones without a permit from an extent of 11 cents in S.No.258/3. For the offence, the memorialist was penalised to the extent of Rs.90/- i.e. twice the seigniorage value (At Rs. 6-4-0 per 1000 stones). The Tahsildar Udipi accordingly demanded payment of the penalty of Rs.90/- from the petitioner in his notice Ref.C.7986 A-5 dated 5-2-49. He filed another revision petition before the Board of which was also rejected in Board's L.Dis.L.5204/49

24

pp31-32 cf (D)
p19 cf (X)

The petitioner filed a revision petition before my predecessor-in-office which was rejected in this office L.Dis.4651/49 dated 27-7-49 . He filed another revision petition before the Board of Revenue which was also rejected in Board's L.Dis.4.5204/49. dated 7-12-49. After a lapse of over one year, the petitioner has come up with this memorial to the Government. Demand notices issued for the collection of the penalty are reported to be pending with the Revenue Inspector for execution.

(H)

2.. All the points raised in the memorial have been dealt with in the records of this office L.Dis.4651/49 and Udipi Tahsildar's C.No.7968/48-A-5 (Pages 1 - 92). The petitioners case is that he quarried the stones for a domestic purpose, and is therefore not liable to pay the penalty. The records of enquiry show that the stones were got quarried primarily with the idea of selling them that only300 or 400 stones could be cut from the pit intended for the tank and that the present contention that he quarried the stones with a view to grow food crops is only an after thought. Even if the petitioners plea is accepted, he cannot be exonerated of the offence as a registered holder cannot quarry more than 4000 stones for his patta land for domestic purposes without a permit.

3. The records of this office L.Dis.4651/49 and Udipi Tahsildar's C.No.7968/48-A-5 (pages 1-92) are enclosed. (D)

(H)

'true copy/

For Joint Secretary.

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Dev. (J)

Memo No. 10399 B/51-4 dated 30.5.51

Mines - quarrying — South Kanara - Mulki Mk - Uppoor village — Removal of stones — levy of enhanced Seigniorage fees - Petition from Sri Narasinga Rao — Dismissed.

pp 1-11 cf
p 23 cf

From Sri Narasinga Rao, Uppoor, S. Kanara Dt. petition dt 15.1.51.
From the Bd. of Rev, Ref. L.1048/5-3 dt 12.5.51

vide orders on p 2 cf

The petition is ~~dismissed~~ Rejected.

2. The following records are returned to the Bd. of Rev :-

(H) — (1) C.No. 7986/48-A5 (pp 1-92) of the Taluk office,
(D) — (2) MDis 4651/49 of the Coll. of S. Kanara
(X) — (3) Board's MDis 5202/49 of 7.12.49.

The Bd. is requested to acknowledge their receipt

To the Bd. of Rev (with encls)
" " Coll. S. Kanara.
" Sri Narasinga Rao, Uppoor P.O, Mulki Mk, S. Kanara Dt.

Mad wire dt 8/6/51 (partial only)

29.5.51.

30.5.51

Revenue Department
Subject.

21

MINES - Quarrying - South Kanara - Udipi Taluk - Uppoor village Removal of stones - Levy of enhanced Seigniorage fees - Petition from Sri Narasinga Rao - Dismissed - Recorded.

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10 JUN 1961

Station: Madras. B.P.Rt. 3908 d/ 8-6-51.

64623

From

Sri N.C. Thomas, B.A.,
Joint Secretary, Board of Revenue.

...

Sri V.N. Kudva, I.C.S.,
Commissioner of Commercial Taxes.

...

p 15 above

READ: Government Memo. No. 10399 J/51-1 Development dated 31-1-51.

pp 2 - 24 above

From the Collector of South Kanara C.No. 4213/51 d/ 20-4-51.

p-25 above

Government Memo No. 10399 J/51-4 Development dated 30-5-51.

RESOLUTION:

3. The Board acknowledges receipt of the files returned to the Board with their memorandum No.10399 J/51-4 Development dated 30-5-51

for JOINT SECRETARY.

To The Collector of South Kanara
(with enclosures) by Regd. Post.
(Paras 1 & 2)
The Secretary to Government,
Development Department, Madras.
(Para 3)

SV/8-6.

Dot-J

To Dept.

Maybe lodged

13/6/51

Development (J) Department

Sub: Mines - Quarrying - (South Kanara District) - Udipi Taluk - Uppoor Village - S.No.258/3 - Illicit quarrying of stones - Levy of enhanced seigniorage - Revision petition from Sri Narasinga Rao.

pp-1-11-f- From Sri Narasinga Rao, of Uppur, petition dated 15.1.1951.
pp-21-24-f- From the Board of Revenue, Ref.L.1048/51-3 dated 12.5.1951.

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pp 1-11-f- The present petition from Sri Narasinga Rao of Uppur Village, Udipi Taluk, S. Kanara District is against the orders of the Collector levying an enhanced seigniorage of Rs.90/- (@ twice the prescribed rate), for having unauthorisedly quarried 7200 stones in his own patta land S.No.258/3. The revision petitions of the petitioner against the above order to the Collector and the Board were both dismissed. The remarks of the Collector of S. Kanara and the Board are on present petition pp.23-24c.f.

pp21 cf (H)

pp31-32 cf (D) (X) p19 cf (X)

2. The facts of the case are that the petitioner applied to the Tahsildar on 7-9-48 for a permit to quarry stones in his land both for domestic purposes and also for sale. The concerned Revenue Inspector inspected the site on December '48 for making necessary enquiries on the application. He then found that the petitioner had already quarried 7200 stones and had kept them on the site. In his statement before the Revenue Inspector the petitioner deposed that he would use the stones in the construction of a tank for irrigating the land and also of a building and sell away the remaining stones. The enquiries made by the Revenue Inspector showed that the petitioner had quarried stones only for sale. As the land in question was not fit for any cultivation on account of the hard nature of the soil, the Revenue Inspector did not believe the petitioner's story. He therefore recommended that the offence of having quarried stones without permit, might be compounded. Based on this report

pp 1-2 cf (H)

pp 19-20 cf (H)

'C' on p 17 cf (H)
& 'A' on p 19 cf (H)

'A' on p 19 cf (H)

'B' on p 19 cf (H)

'C' on p 19 cf (H)

'D' on p 19 cf (H)

P.T.O

d with the previous approval of the Collector the sildar directed the levy of a penalty of Rs.90/- @ two imes the ordinary rate of seigniorage.

3. According to rule 6(2) in chapter V of the Madras ining Manual, a registered holder should take the permi-ssion of the Tahsildar or the Collector as the case may be, or quarrying on a large scale, in his land either for domestic or other purposes. The action of the petitioner in having quarried without a permit such large quantity of stones was therefore irregular.

4. In his present petition the petitioner has contended that the levy was unjustified as the stones quarried were mainly for constructing a tank and a house on the land and that he did not actually sell any stone. This contention will not be sustainable for the reason that as obviously the petitioner had quarried stones on a large scale without permission, in contravention of rule 6(2), the use to which the stones quarried is put to, is not material. In the circumstances, there are no grounds for a revision of the orders levying the penalty. It is for orders whether the petition will be rejected.

20/5/51..

A draft memo is submitted for approval.

29.5.51.

SECRETARY TO GOVERNMENT
28 MAY 1951
DEVELOPMENT DEPARTMENT

DEPUTY SECRETARY TO GOVERNMENT
23 MAY 1951
DEVELOPMENT DEPARTMENT

p25y [Issued as Memo No 10399 J/51-1 D 31-151]
p27y [From the Bd of Rev B.P.Rt 3908 28-551].

To. A.S.

With reference to Govt Memo on p25y the letter from the Board of Rev on p.27 cf is submitted for perusal. No further action is called for in this file. The papers may be closed.

13/6/51

13/6/51)